

1 Lawyers Against Lawsuit Abuse, APC
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3 402 West Broadway, Suite 400
4 San Diego, CA 92101
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5 Attorney for Defendants Timberline Moulding,
6 Marvin Wait and Susan Wait

7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9
10 RAYMOND BERRY,

11
12 Plaintiff,

13 v.

14 TIMBERLINE MOULDING; MARVIN WAIT,
15 SUSAN WAIT; and Does 1 through 10, Inclusive,

16 Defendants

CASE NO.: '08 CV 0352 BEN (CAB)

17 **NOTICE OF UNAVAILABILITY OF**
18 **DEFENDANTS' COUNSEL**

19 **--Via Facsimile--**

20 PLEASE TAKE NOTICE that Attorney David Warren Peters will be out of the country between
21 approximately 21 April through 12 May 2008. Mr. Peters expects to be reachable primarily
22 through email (with some delay) at dpeters@ascervus.com and may be reachable by cell phone
23 by calling Ruth Braida at (619) 595-4898.

24 Two lawyers have agreed to be available to respond to any matter which genuinely cannot
25 wait for Mr. Peters' return; they should be contacted in the following order:

26 1. Erica Berent (619) 301-6432

27 2. Robert Broadbelt (310) 274-7100.
28

Purposefully scheduling a proceeding during¹ an opponent's known absence without good

1 cause has been held to be sanctionable conduct. Tenderloin Housing Clinic v. Sparks, (1992) 8
2 Cal. App. 4th 299. We apologize for any inconvenience and thank you, in advance, for your
3 anticipated patience and professional courtesy during this time.
4

5 *Respectfully submitted,*

6 Dated: 18 April 2008

7 Lawyers Against Lawsuit Abuse, APC
8 s/ DAVID W. PETERS
9 Email: dpeters@ascervus.com

10 Attorneys for Defendants Safino Designs, Inc., and
11 Michael Safino

12 Email: dpeters@ascervus.com

13 --Via Facsimile--
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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 **RAYMOND BERRY,**

11 **Plaintiff,**

12 **v.**

13
14 **TIMBERLINE MOULDING; MARVIN**
15 **WAIT, SUSAN WAIT; and Does 1 through**
16 **10, Inclusive,**

17
18 **Defendants**
19

CASE NO.: '08 CV 0352 BEN (CAB)

Proof of Service

**NOTICE OF UNAVAILABILITY OF
DEFENDANTS' COUNSEL**

20 I, the undersigned, hereby declare that I am a resident of the State of California and am
21 employed in the County of San Diego, State of California. I am over the age of 18 and not a
22 party to the within action; my business address is Lawyers Against Lawsuit Abuse, APC, 402
West Broadway, Suite 400, San Diego, CA 92101.

23 On 18 April 2008, I served the foregoing document described as:

24 **1. NOTICE OF UNAVAILABILITY OF DEFENDANTS' COUNSEL**

25 on the parties in this action by serving:

26 **AMY B. VANDEVELD,**
27 **LAW OFFICES OF AMY B. VANDEVELD**
28 **1850 FIFTH AVENUE, SUITE 22**
SAN DIEGO, CALIFORNIA 92101

FAX: 619-231-8329

(X) By Electronic Service Transmission via the United States District Court, Southern Division, Case Management/Electronic Case Files, Filing System. I served a copy of the above-listed document(s) to the e-mail addresses of the addressee(s) by use of email as identified and maintained therein.

() By Envelope - by placing () the original (X) a true copy thereof enclosed in sealed envelope(s) addressed as above and delivering such envelope(s):

() By Mail: As follows: I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Diego, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

() By Facsimile Transmission: By use of facsimile machine telephone number as stated above, I served a copy of the above-listed document(s) to the offices of the addressee(s) by transmitting same via facsimile machine. The facsimile machine I used complied with California Rules of Court, Rule 2004, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the transmission.

() By Email Transmission: By use of email, I served a copy of the above-listed document(s) to the offices of the addressee(s) by sending the same via electronic mail transmission.

(X) FEDERAL I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on 19 April 2008, at San Diego, California.

s/ DAVID W. PETERS
Email: dpeters@ascervus.com
--Via Facsimile--